

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Market Dominant Product Prices
Standard Mail
PHI Acquisitions, Inc.

Docket No. MC2014-21

Market Dominant Product Prices
PHI Acquisitions, Inc. (MC2014-21)
Negotiated Service Agreement

Docket No. R2014-6

CHAIRMAN'S INFORMATION REQUEST NO. 1

(Issued March 19, 2014)

To clarify the basis of the Postal Service's request to add a PHI Acquisitions, Inc. (PHI) negotiated service agreement (Agreement) to the market dominant product list,¹ the Postal Service is asked to provide written responses to the following questions. Answers should be provided to individual questions as soon as they are developed, but no later than March 25, 2014.

1. 39 C.F.R. § 3010.43 details the minimum requirements for the Postal Service's data collection plan and data reporting during the negotiated service agreement's (NSA's) term. 39 C.F.R. § 3010.43(b) requires that the data report under the plan is filed "60 days after each anniversary date of implementation." In addition, 39 C.F.R. § 3010.43(b) describes the minimum requirements for the data report. Please explain how the data collection plan presented in Attachment D to the filing conforms with the requirements of 39 C.F.R. § 3010.43. If necessary, please revise the proposed data collection plan for the Agreement.

2. The Agreement contains an implementation date of “July 1, 2014, or a date mutually agreed upon by the Parties.” Notice, Attachment B at 3. The Agreement also contains an effective date that is “the day after the Commission issues all necessary regulatory approval.” *Id.* at 12.
 - a. Please explain the difference between the “implementation date” and the “effective date” of the Agreement.
 - b. Please describe the significance of the “implementation date” and the “effective date” under the Agreement’s terms.
3. 39 C.F.R. § 3010.42(f)(3) requires the Postal Service to file an analysis of the effects of the Agreement on the contribution to institutional costs from mailers who are not party to the Agreement. Please identify the location in the Postal Service’s Notice where this information is provided. If such information has not been provided, please supplement the Notice to conform with this requirement.
4. 39 C.F.R. § 3010.42(g) requires that the Notice identify “each component of the agreement expected to enhance the performance of mail preparation, processing, transportation, or other functions . . . [and discuss] the nature and expected impact of each such enhancement.” Please identify the location in the Postal Service’s Notice where this information is provided. If such information has not been provided, please supplement the Notice to conform with this requirement.
5. The Agreement’s incentive program clause allows PHI to participate in Postal Service incentive programs during the Agreement’s term. If PHI participates in a Volume Based Incentive, PHI must provide certain information to the Postal

¹ Notice of the United States Postal Service of Filing of Contract and Supporting Data and Request to Add PHI Acquisitions, Inc. Negotiated Service Agreement to the Market-Dominant Product List, March 5, 2014 (Notice).

Service concerning its participation in the Volume Based Incentive. In accordance with the incentive program clause, “[v]olumes and discounts from a Volume Based Incentive may be adjusted to [e]nsure that discounts or incentives are not double-counted.” Notice, Attachment B at 3.

- a. Please confirm that it is at the Postal Service’s discretion to determine if a volume and/or discount adjustment will occur as a result of PHI participation in a Volume Based Incentive. If not confirmed, please explain.
 - b. If part a is confirmed, please describe the criteria the Postal Service will use to determine whether a volume and/or discount adjustment will be assessed and how the adjustment will be calculated.
6. Currently, “more than ninety-five percent (95%) of PHI’s Standard Mail flats volume consists of Carrier Route flats.” Notice, Attachment B at 1. Under the Agreement, “at least ninety percent (90%) of PHI’s overall annual Standard Mail flats volume should remain PHI Eligible Mail.” *Id.* at 2. Please confirm that the Agreement does not mandate that at least 90 percent of PHI’s annual Standard Mail flats volume be PHI Eligible Mail. If not confirmed, please explain.
7. At various places in its Notice and attachments, the Postal Service identifies various factors as key aspects of this contract, some of which appear to bear on its understanding of the requirement that the PHI Agreement be made “available on public and reasonable terms to similarly situated mailers.” 39 U.S.C. § 3622(c)(10). Does the Postal Service consider all of the following objectives, elements, principles, or terms of the PHI Agreement to be required in determining whether another mailer is deemed to be similarly situated?
 - a. “The **objective** of this Standard Mail market-dominant NSA is to increase the total contribution the Postal Service receives from PHI Standard Mail Carrier Route Flats volume and revenue.” Notice at 6. (Emphasis added.)

- b. “The **basic agreement** consists of four key components: (1) a volume threshold, (2) a volume threshold adjustment, (3) a volume commitment and (4) rebates on Standard Mail Carrier Route Flats. . . . The Postal Service regards each of the four main elements described above . . . to be essential components of this NSA. . . .” *Id.* at 7, 10. (Emphasis added.)
 - c. “Th[e] **design imperative**—to generate additional contribution for the USPS—and the basic structure of the NSA with PHI . . . will guide the Postal Service in the negotiation of similar NSAs. . . .” *Id.* at 10-11. (Emphasis added.)
 - d. “[T]he Postal Service believes that the **defining characteristics** of PHI are its size, its large but stagnant catalog mail volume history, and the availability of company mail and catalog data.” *Id.* at 11. (Emphasis added.)
 - e. If there are any aspects of the PHI Agreement that the Postal Service will require for an agreement with a similarly situated mailer not stated in subparts a through d, please identify those aspects.
8. In its description of the **design imperative** on page 10 of the Notice, the Postal Service lists “current and future economic conditions” as a basis for determining the exact values of the main elements of the Agreement: volume threshold, volume threshold adjustment, volume commitment and rebates.
- a. Please describe how current and future economic conditions were factored into the exact values of the volume threshold, volume threshold adjustment, volume commitment and rebates in the Agreement. In the description, please discuss any macroeconomic indicators relied upon and their impact on the development of the main elements of the Agreement.
 - b. Please describe how current and future economic conditions will be used to establish the exact values of the volume threshold, volume threshold

adjustment, volume commitment and rebates in agreements with similarly situated customers.

9. On page 11 of the Notice, the Postal Service states that the “defining characteristics of PHI are its size, its large but stagnant catalog mail volume history, and the availability of company mail and catalog data.” Cells C174 through F174 in the “Inputs” tab of PHI_NSA_Financials.FINAL.xlsx show that PHI’s volume has increased by approximately 1 percent annually since 2010. Please explain why the Postal Service considers PHI’s annual growth rate to be stagnant.
10. The following questions refer to PHI_NSA_Financials.FINAL.xlsx.
 - a. On pages 12-13 of the Notice, the Postal Service states that it “estimates that the total volume of PHI’s Eligible Standard Mail Flats (CR flats with IMb) will increase by about one percent (1.0%) per year in the absence of this NSA over the course of the next five years provided that projected current and future economic conditions do not deviate significantly from Postal Service projections.” Please explain why the “Before Rates Volumes” in Tab Inputs, Cells H174 through L174 reflect an annual decrease in volume of approximately one percent per year.
 - b. Please refer to Tab Inputs, Cells C174 through F174. The historical volume for the Potpourri Group reflects an approximate annual increase in volume of one percent from 2010 through 2013. In light of this increasing trend, please explain why the projected volume for 2014 in Tab Inputs, Cell G174 and the “Before Rates Volumes” in Tab Inputs, Cells H174 through L174 reflect an approximate one percent decrease in volume from 2013.
11. Section III.D of the Agreement describes the revisions to the Annual Volume Threshold and the following Quarterly Baseline Volumes in the event that,

between November 1, 2013 and the Implementation Date of the Agreement or during the term of the Agreement, “there are postal rate increases or changes in classification or classes or other changes on Standard Flats mail or FSS pricing that would result in a year-over-year Increased Total Annual Postage (“Increased Total Annual Postage”) for PHI Eligible Mail greater than twenty (20) basis points more than the January CPI-U preceding the implementation of that postal change.” Notice, Attachment B at 5. Under the Agreement, if the Increased Total Annual Postage is greater than 20 basis points more than the January CPI-U, the volumes would be adjusted by applying an Adjustment Percent to the volumes. The Adjustment Percent is derived from multiplying the percentage increase by a factor of 1.4. *Id.* at 6.

- a. Please explain how the factor used to calculate the Adjustment Percent (1.4) was developed. Please provide any underlying calculations.
 - b. Please confirm that the Postal Service’s financial workpapers do not reflect any adjustment to the Annual Volume Threshold as a result of the exigent rates that went into effect January 26, 2014. If confirmed, please provide revised workpapers reflecting the impact of the exigent price increase. If not confirmed, please explain.
12. On page 7 of the Notice, footnote 14 states that the Postal Service included FSS information in the discussion of the volume threshold “in the event FSS becomes a category or sub-category during the term of this NSA.”
 - a. Please confirm that on January 26, 2014 the Postal Service implemented FSS Pricing for Standard Mail Flats, Carrier Route Flats, High Density Flats, and High Density Plus Flats. If not confirmed, please explain.
 - b. Please explain which categories of FSS Flats will be considered eligible mail for the purposes of the volume threshold calculation.

- c. Please confirm that the financial model does not include FSS Flats in the contribution calculations. If confirmed, please provide revised workpapers that reflect the implementation of FSS pricing. If not confirmed, please explain.

By the Chairman.

Ruth Y. Goldway